IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7606 OF 2004

Prakash Baburao Rode & Anr. ...Petitioners

Versus

Sandesh Sahakari Griha Rachana Sanstha Ltd. & Ors. ...Respondents

.....

Dr. V.K. Choudhary with Mr. Anurag Jain, counsel for Petitioners

Mr. R.G.Ketkar, counsel for Respondent No.1.

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CORAM: B. H. MARLAPALLE, J.
DATED: 18TH MARCH, 2005

P. C.:-

1. Heard Dr. Choudhary with Mr. Anurag Jain, the learned counsel for the petitioner and Mr. Ketkar, the learned counsel for the respondent No.1. The learned A.G.P. appears for respondent Nos. 2 and 3.

2. The Deputy Registrar, Co-operative Societies, Pune had issued show cause notice U/sec. 78 of the Maharashtra Co-operative Societies Act, 1960 ("the Act" for short) on 14.6.2004 against the respondent No.1 Society and it had submitted its reply thereto on 28.6.2004. On the very next date, the Deputy Registrar appointed an Administrator. This order dated 29.6.2004 was challenged by way of an appeal before the Divisional Joint Registrar and by the impugned order dated 19.8.2004 the appeal has been allowed and consequently the order passed by the

Deputy Registrar on 29.6.2004 under the provisions of Section 78 of the Act has been set aside. Hence, this petition under Article 227 of the Constitution.

3. After hearing the learned counsel for the respective parties at length, it is clear that the impugned order to the extent of setting aside the order dated 29.6.2004 passed by the Deputy Registrar does not call for any interference inasmuch as the order dated 29.6.2004 did not set out any reasons for suspension of the Managing Committee and the appointment of an Administrator. It was necessary for the Deputy Registrar to record his findings on each of the charges as set out in the show cause notice dated 11.6.2004. Needless to mention, the reasons are blood and flush of every order of adjudication.

4. However, by the impugned order it was not permissible for the Divisional Joint Registrar to close the enquiry initiated by the Deputy Registrar and in respect of the charges which still remained to be enquired into, the Deputy Registrar ought to have been allowed to proceed afresh and if found a case to proceed against the Managing Committee U/sec. 78 of the Act, the compliance of seeking permission from the Apex body could have been applied for afresh. To this extent the impugned order passed by the

Divisional Joint Registrar is indefensible. If regards be had to the reply submitted by the respondent No.1 Society to the show cause notice, there are some charges which are of serious nature and call for fresh enquiry. In the obtaining circumstances, it would be appropriate for the Divisional Joint Registrar to apply his mind to such remaining charges and modify the impugned order so as to allow the Deputy Registrar to proceed afresh, after hearing the respective parties.

5. Hence, the petition is disposed of by confirming the order to the extent of setting aside the order passed by the Deputy Registrar dated 29.6.2004 and directing the Divisional Joint Registrar to hear the parties afresh on the charges to be investigated by the Deputy Registrar afresh, by taking into consideration the show cause notice dated 11.6.2004 and the reply thereto filed by the respondent No.1 society, as per law. This shall be done as expeditiously as possible and preferably within a period of eight weeks from the receipt of writ from this Court. Parties to appear before the Divisional Joint Registrar on 4.4.2005. Status quo as at preset to be continued. All contentions between the parties are left open.